



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
RESTORATION PROGRAM OFFICE
1400 CENTREPARK, SUITE 750
WEST PALM BEACH, FLORIDA 33401-7402

July 11, 2006

Special Project/Enforcement Branch
SAJ-2005-53(IP-TKW)

Ms. Carol A. Wehle
Executive Director
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Dear Ms. Wehle:

The U.S. Army Corps of Engineers (Corps) has completed the review and evaluation of your permit application number SAJ-2005-53(IP-TKW). The project is located in the eastern half of Compartment A of the Everglades Agricultural Area and borders Highway U.S. 27 and the North New River Canal to the east, Stormwater Treatment Area 3/4 to the south, and the Holey Land Wildlife Management Area to the southwest in Palm Beach County, Florida. The project includes construction of the EAA Reservoir A-1 which is a State of Florida Acceler8 project.

The goal of the Acceler8 program is to assist in the restoration, preservation, and protection of the South Florida ecosystem while providing for other water related needs of the region. This program of projects will be designed to provide the quantity, quality, timing, and distribution of water necessary to achieve and sustain those essential hydrological and biological characteristics that define the restored south Florida ecosystem. The construction and operation of Acceler8 will be required to remain consistent with the Federal Central & South Florida Project as modified by law and its project goals and purposes.

Given that the Acceler8 projects are intended to be constructed by the State and are a subset of planned federal projects within the Comprehensive Everglades Restoration Plan (CERP), the South Florida Water Management District has agreed with the Federal Government to design, construct, and operate the Acceler8 projects consistent with the requirements of the Water Resources Development Act (WRDA) of 2000, applicable

federal and state law, and the Central and Southern Florida Project purposes as a whole. The State acknowledges that it will be in full compliance with the Programmatic Regulations, President/Governor Agreement, and Section 601 of WRDA 2000 prior to execution of a Project Cooperation Agreement in order for the Acceler8 project to become a federal project. Until such time, the Acceler8 projects are a state program and programmatic regulations are not directly applicable.

Our regulations require that you have an opportunity to review the terms and conditions prior to final signature by the Department of the Army. Enclosed are two unsigned Department of the Army permit instruments (permit).

Please read carefully the Special Conditions beginning on page 3 of the permit. These were developed to apply specifically to your project. Water Quality Certification is also required prior to issuance of a permit. A copy of the State certification for your project has been received. In accordance with General Condition 5 of the permit, the Water Quality Certification has been attached to the Department of the Army permit.

This letter contains an approved jurisdictional determination and proffered permit for your subject permit application. If you object to this determination/decision, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination/decision, you must submit a completed RFA form to the South Atlantic Division Office at the following address:

Mr. Michael F. Bell
South Atlantic Division
U.S. Army Corps of Engineers
CESAD-CM-CO-R, Room 9M15
60 Forsyth St., SW.
Atlanta, Georgia 30303-8801.

Mr. Bell can be reached by telephone number at 404-562-5137, or by facsimile at 404-562-5138.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address by September 11, 2006.

It is not necessary to submit an RFA form to the Division office, if you do not object to the determination/decision in this letter. In this case, both copies must be signed by the applicant in the space provided on the signature page of the permit. In the case of corporations, acceptance must be by an officer of that corporation authorized to sign on behalf of the corporation. The party responsible for assuring the work is done in accordance with the permit terms and conditions must sign the permit. Please type or print the name and title of the person signing below the signature and the date signed.

SIGN AND RETURN BOTH PERMITS, IN THEIR ENTIRETY, TO THE LETTERHEAD ADDRESS.

Both permits will be signed by the District Engineer and one copy returned to you. It is important to note that the permit is not valid until the District Engineer signs it.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:
http://www.saj.usace.army.mil/permit/forms/customer_service.htm.
Your input is appreciated - favorable or otherwise.

Should you have any questions, please contact Tori K. White at the letterhead, via electronic mail at

tori.white@saj02.usace.army.mil, or by telephone at
561-472-8888.

Sincerely,

A handwritten signature in cursive script, reading "Robert M. Carpenter". The signature is written in dark ink and is positioned above the printed name.

Robert M. Carpenter
Colonel, U.S. Army
District Commander

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: South Florida Water Management District		File Number: SAJ-2005-53(IP-TKW)	Date: July 11, 2006
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
X	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cccwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Tori K. White
561-472-8888

If you only have questions regarding the appeal process you may also contact:

Michael F. Bell
404-562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



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July 11, 2006

Special Project/Enforcement Branch
SAJ-2005-53 (IP-TKW)

Ms. Carol A. Wehle
Executive Director
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Dear Ms. Wehle:

The U.S. Army Corps of Engineers (Corps) is pleased to enclose the Department of the Army permit, which should be available at the construction site. Work may begin immediately but the Corps must be notified of:

- a. The date of commencement of the work,
- b. The dates of work suspensions and resumptions of work, if suspended over a week, and
- c. The date of final completion.

This information should be mailed to the Enforcement Section of the Regulatory Division of the Jacksonville District at Post Office Box 4970, Jacksonville, Florida 32232-0019. The Enforcement Section is also responsible for inspections to determine whether Permittees have strictly adhered to permit conditions.

IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.

Sincerely,

A handwritten signature in black ink, reading "Robert M. Carpenter", is positioned above the printed name.

Robert M. Carpenter
Colonel, U.S. Army
District Commander

Enclosures

Copies Furnished:

DOI, Atlanta

FWS, Vero Beach

EPA, West Palm Beach

CESAJ-RD-PE

DEPARTMENT OF THE ARMY PERMIT

Permitted: SOUTH FLORIDA WATER MANAGEMENT DISTRICT
3301 GUN CLUB ROAD
WEST PALM BEACH, FLORIDA 33406

Permit No: SAJ-2005-53 (IP-TKW)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project includes the placement of fill associated with the construction and operation of an above-ground reservoir on a 16,768-acre site. The reservoir will have a storage capacity of 190,000 acre-feet at an approximate depth of 12.5 feet. The project features are described in Attachment 1. The work described above is to be completed in accordance with the two sets of drawings in 42 and 56 pages dated March 9 and March 10, 2006, respectively and 7 attachments affixed at the end of this permit instrument.

Project Location: The project is located in the eastern half of Compartment A of the Everglades Agricultural Area (EAA) and borders Highway U.S. 27 and the North New River Canal (NNRC) to the east, Stormwater Treatment Area (STA) 3/4 to the south, and the Holey Land Wildlife Management Area (HLWMA) to the southwest. The project site includes 16,768 acres and is located in portions of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 35, 36, Township 46 south and Range 37 east; and Section 31, Township 46 south and Range 38 east in Palm Beach County, Florida.

NW corner: Latitude.....26°29'21" North
Longitude.....80°41'22" West

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NE corner: Latitude.....26°29'22" North
Longitude.....80°39'25" West

SW corner: Latitude.....26°23'49" North
Longitude.....80°41'15" West

SE corner: Latitude.....26°23'50" North
Longitude.....80°35'10" West

Directions to site: To access the site from the Florida Turnpike or Interstate 95, exit at Southern Boulevard (U.S. Highway 98/State Road 80), and proceed west for 18.5 miles. From the point at which Southern Boulevard turns into U.S. Highway 441 North, continue on U.S. 441 north for 13.3 miles and then proceed west on S.R. 80 7 miles to U.S. Highway 27 at South Bay. Go approximately 15 miles to the second blinking yellow light and turn right (approximately 10 miles north of Broward/Palm Beach County line). The project site is on the north side of the canal.

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **July 11, 2011**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

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3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions: The terms used in these permits will have the same definition as those terms in 33 CFR Part 385.3, unless otherwise defined.

1. All submittals and reports required under this permit and all subsequent modifications shall be provided in a single Consolidated Annual Report, i.e., the South Florida Environmental Report on March 1, and should be provided to the following addresses:

U.S. Army Corps of Engineers (USACE)
South Florida Restoration Program Office
1400 Centrepark, Suite 750
West Palm Beach, Florida 33401
Re: Project No: SAJ-2005-53(IP-TKW)

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U.S. Army Corps of Engineers
Enforcement Section (CESAJ-RD-PE)
P.O. Box 4970
Jacksonville, Florida 32232-0019
Re: Project No: SAJ-2005-53 (IP-TKW)

2. The permittee shall conduct a pre-construction meeting a minimum of 5 days prior to commencement of construction in order to notify contractors of the requirements of the permit. The permittee shall provide a minimum of 48 hours advance notification of the pre-construction meeting to the USACE, South Florida Restoration Program Office.

3. The permittee shall notify the USACE, South Florida Restoration Program Office, in writing at least 48 hours prior to commencement of the work authorized by this permit.

4. The permittee shall provide as-built drawings of the authorized work and a completed As-Built Certification Form. The drawings and Certification Form are to be submitted within 90 days of completion of the authorized work or a response indicating that the authorized work has not been accomplished shall be submitted prior to the expiration of the construction authorization of the permit. The drawings and Certification Form must be signed and sealed by a professional engineer registered in the State of Florida and where appropriate, a professional land surveyor registered in the State of Florida. In the event that the completed work deviates from the approved permit drawings and special conditions, the permittee shall describe, on the Certification Form, the deviation(s) between the project authorized by the permit and the project constructed. A blank Certification Form is attached at the end of this permit.

5. Conditions for projects the permittee plans to construct in furtherance of the Comprehensive Everglades Restoration Plan (CERP), but which are being constructed in advance of final authorization/approval of the associated CERP Project Implementation Report (PIR) and/or execution of a Project Cooperation Agreement (PCA):

a. The USACE' analysis of this permit application pursuant to applicable regulations and the National Environmental Policy

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Act (NEPA) may need to be supplemented as new information becomes available and/or to meet requirements for modifications of the permit.

b. The USACE' decision that this project has independent utility is made solely for the purpose of permitting and does not mean that it is or is not a separable project under CERP.

c. Issuing this permit does not constitute approval of any engineering or design for any future consideration of the project under CERP.

d. Future action on related portions of this project or other projects being implemented under CERP may require additional NEPA compliance analysis and documentation or other related analyses under the USACE' Civil Works Planning Process.

e. The issuance of this permit does not constitute a recommendation by the Chief of Engineers for congressional authorization of this project for construction or implementation as a feature or component of an authorized CERP project.

f. The issuance of this permit does not constitute approval of this project as being necessary, integral, and cost effective for consideration of cost sharing for the planning, design, engineering, construction or implementation of a feature of CERP.

g. Any work under an authorized federal project cannot be considered for any mitigation that may be required by issuance of this permit

h. The permittee is required to design, construct, and operate the project consistent with the Central and Southern Florida Project as modified.

i. The permit specific conditions will be reevaluated if a PCA is executed on an authorized CERP project, which includes the Acceler8 project feature, in order to relieve the permittee of specific conditions that are no longer applicable.

6. CESAJ Master Specifications: The permittee shall adhere to all applicable CESAJ Environmental Specifications from Section

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01355 and the CESAJ Turbidity Specifications from Section 01411 of the plans and specifications for the project, which are incorporated herein by reference.

7. Environmental Commitments:

a. The permittee shall monitor water quality in accordance with the EAA Reservoir A-1 Water Quality Monitoring Plan, Annex F of the May 2006 EAA Reservoir A-1 Final Environmental Impact Statement (FEIS) incorporated herein by reference, absent a federally approved state water quality monitoring plan for the EAA A-1 Reservoir project. This permit acknowledges that the permittee shall ensure the project remain in compliance with State Water Quality Certification for the life of the project. Results of the project water quality monitoring will be provided annually in the South Florida Environmental Report.

b. The permittee shall employ best management practices with regard to erosion and turbidity control as described in the Section 01411 Turbidity Specifications". Prior to construction, the permittee shall examine all areas of proposed erosion/turbidity control in the field, and make adjustments to the plan specified in the plan control device as warranted by actual field conditions at the time of construction.

c. The contract specifications will prohibit the contractor from dumping oil, fuel, or hazardous wastes in the work area and will require that the contractor adopt safe and sanitary measures for the disposal of solid wastes in accordance with federal, state, and local requirements. The permittee shall develop an environmental protection plan to address concerns regarding monitoring of equipment, maintenance and security of fuels, lubricants, and spill prevention.

d. Demolition debris will be transported to a landfill or otherwise disposed of in accordance with federal, state, and local requirements. Concrete or paving materials will be disposed of in accordance with federal, state, and local requirements and submitted concurrent with the notice of the pre-construction meeting referenced in special condition number 2 above.

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e. Soil within the lower 1/3 of the Woerner Farm 3 Tract, approximately 350 acres, will be removed and used to form the northern exterior face of the reservoir embankment. The soils will be vegetated.

f. All muck soils removed from the project site for construction, excluding those from the Woerner Farm 3 Tract, remaining after placement along the exterior reservoir embankment will be redistributed in the seepage buffer area in order to encourage natural recruitment of wetland plant species.

g. The permittee agrees to implement an exotic plant management program for the reservoir project site including the embankment, seepage buffer, and undisturbed lands within the Woerner Farm 3 Tract and outer buffer area.

h. The permittee shall minimize complete drydown of reservoir cells to the maximum extent practicable in order to minimize potential remobilization of contaminants.

i. The permittee shall implement a monitoring program of groundwater levels in the farmland to ensure flood protection is being maintained and/or improved and of surface water elevations in the Holey Land Wildlife Management Area to ensure no adverse impacts as a result of seepage. Results of the monitoring shall be reported in the Consolidated Report identified in Special Condition number 1.

8. Wildlife/Listed Species Conditions:

a. This Department of the Army permit does not authorize you to take a(n) threatened or endangered species. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The April 14, 2006, United States Fish and Wildlife Service (USFWS) BO for the EAA Reservoir A-1 project incorporated herein by reference contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this permit is conditional upon your compliance with all of the mandatory terms and

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conditions associated with incidental take or the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, would constitute non-compliance with your USACE permit. The Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA. For further clarification on this point, you should contact the USFWS, South Florida Ecological Services, Vero Beach Office, 1339 20th Street, Vero Beach, Florida 32961.

b. Immediately prior to construction of each phase of the project, bald eagle, wood stork, and burrowing owl surveys will be performed. If owls are observed within the Acceler8 EAA Storage Reservoir construction footprint, the Florida Fish and Wildlife Commission (FFWCC), 255 154th Avenue, Vero Beach, Florida 32968-9041, telephone number 772-778-5094 (FFWCC) will be consulted for management measures. More information on FFWCC permit requirements and applications can be found on the web at <http://wld.fwc.state.fl.us/permits/permits.html>. If inundation of the reservoir commences during burrowing owl nesting season, 15 February through 10 July, surveys will be performed within the footprint of the reservoir prior to inundation in order to determine whether actively nesting owls are present. If bald eagle nests are encountered on the project footprint, the USFWS' *Habitat Management Guidelines for the Bald Eagle in the Southeast Region* will be implemented during construction of the EAA Reservoir A-1 project. Both the FFWCC and USFWS will be consulted in the event that colonial or solitary wading bird nests are observed within the construction footprint. The USFWS will be notified upon locating a dead, injured, or sick wood stork or bald eagle before, during, and after construction of the reservoir.

c. The permittee shall inform contractor personnel of the potential presence of threatened and endangered species in the project area, the need for precautionary measures and the ESA prohibition on taking listed species. Construction contractors will be trained and briefed on how to identify the wood storks and bald eagles in the area. The USFWS will be notified upon observation of any stork or eagle nesting activity.

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d. The following special measures will be incorporated during project construction to minimize effects to any listed species that may be present: a) *Standard Protection Measures for the Eastern Indigo Snake*; b) *Management Guidelines for the Bald Eagle in the Southeast Region and Bald Eagle Standard Local Operating Procedures for Endangered Species*; and c) *Habitat Guidelines for the Wood Stork in the Southeast Region*. Copies of the documents required for items b and c are available on the internet at <http://www.fws.gov/verobeach/Programs/Permits/Section7.html>. These documents are incorporated into the permit by reference.

e. If new electrical lines are constructed near open water to service new pumps, the publication *Suggested Practices for Raptor Protection on Powerlines: The State of the Art in 1996* published by the Avian Powerline Interaction Committee shall be consulted for recommended measures to protect bald eagles from electrocution.

f. A monitoring program will be developed to assess mercury levels and other contaminants within the water column, including before drying and upon rehydration of the reservoir. Additional monitoring will be performed at inflow and outflow points. The monitoring program will also include assessing mercury levels and other persistent contaminants in prey fish (mosquitofish, sunfish, and largemouth bass) within the reservoir and downstream area. In the event that ecological risks from contaminants to listed species become evident through sampling regimes and monitoring, the USACE will consult with the USFWS to determine if re-initiation of consultation in accordance with Section 7 of the ESA is necessary. The plan shall be submitted to the USACE for review and approval. This permit acknowledges that this plan may be incorporated into the project water quality monitoring plan referenced in Special Condition number 7.a above.

g. The permittee shall implement the following protocols during construction for protection of the West Indian manatee: a) Protocols to Minimize/Avoid Entrapment at structures; b) Protocols for Existing and New Culverts based on the size of culverts; c) the Manatee Blasting Protocol when explosives are required; d) Ground Observer Protocols, as well as the *Standard Manatee Construction Conditions*. In addition, intake canals and/or structures will include an aluminum grate from the bottom

of the structure to approximately 1 ft above high water, with 8 inches of bar spacing, or a similar exclusion feature. The features will be designed for temporary removal in the event of a water emergency. If barriers are in place at the Lake Okeechobee structures S-351, S-352, and S-354 to prevent manatees from entering the EAA, prior to initial construction of the project, adverse effects to manatees in the EAA will be minimized and observer protocols and barriers at individual structures of the project will be unnecessary.

h. The initial manual flooding of the reservoir will be at a rate of one-half inch per day until a depth of six inches is attained in order to minimize negative impacts to the eastern indigo snake. The reservoir will also be initially manually filled at a rate of one inch per day from the six-inch to 12-inch water depth to allow additional time for other terrestrial wildlife to vacate the area.

i. This permit acknowledges that the permittee will implement all reasonable measures during operation of the reservoir in order to minimize adverse effects to fish and wildlife species provided those measures do not conflict with the overall project purpose which includes the following: to provide water storage, to improve the timing of water deliveries from the EAA to the WCAs, reduce Lake Okeechobee regulatory releases to the St. Lucie and Caloosahatchee Estuaries, meet supplemental agricultural irrigation demands, and increase flood protection within the EAA.

9. Historic Properties:

a. No work is authorized by this permit on properties listed or eligible for listing in the National Register of Historic Places.

b. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving the subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact

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the Florida Department of State, Division of Historical Resources, Review and Compliance Section at 850-245-6333 or 800-847-7278. Project activities should not resume without verbal and/or written authorization from the permitting agency.

c. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance within Section 872.05, Florida Statutes.

10. Construction Authorization:

a. Construction of the project is limited to the seepage canal along the northern, northwestern, and eastern portions of the reservoir project site, excavation of three borrow pits within the interior of the project site, and excavation of an interior borrow canal that will follow the perimeter of the overall project footprint as shown in the project plans and specifications, pages 1-56 dated March 10, 2006. No additional construction or operation of the facility is authorized at this time. This permit recognizes preliminary design for the embankment and canals as sheets 1-42 dated March 9, 2006, in the attachments. This set of plans and specifications will be updated and finalized when construction of these features is authorized through future modification of this permit.

b. This permit recognizes that authorization to construct other portions of the project and to operate the reservoir will be based on the phased receipt of State Water Quality Certifications. The NEPA documentation and Record of Decision for this permit evaluated the construction and operation of the proposed reservoir in its entirety; however, it is the USACE' intention to review the permit in coordination with the U.S. Environmental Protection Agency when applicable water quality permits are issued by and/or the Florida Department of Environmental Protection (FDEP) and, where possible, and consistent with the law and the public interest, to conform this Section 404 permit to those permits. The permit has been made sufficiently flexible to incorporate by modification additional construction subsequent water quality permit conditions imposed in permits issued by the FDEP and to conform, where possible and consistent with the law and the public interest, the DA permit to the State permits.

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The following conditions shall apply until a PCA for a CERP project that includes all or a portion of the Acceler8 project is executed and the USACE determines that these mitigation and monitoring conditions are superseded by PCA execution, in whole or in part. For the purposes of this permit, the final operations plan is defined as the operation plan that is implemented when all of the Acceler8 projects are brought on line. (This is currently estimated by the permittee to be 2010.)

11. Initial and Phased Operations:

a. The permittee shall request approval of an initial operations plan at least six months prior to the projected operation of the project. The initial operation plan will be reviewed and approved by the USACE in accordance with current USACE Engineering Regulations and the requirements of the Central & Southern Florida (C&SF) Project as modified.

b. This permit acknowledges that operations of the EAA Reservoir A-1 may be phased through time to send water into the Everglades Protection Area as constraints are removed until such time that a final operations plan can be implemented. The USACE will review and approve all phased operations plans for the EAA Reservoir A-1.

c. The project will be operated in order to achieve the goals and objectives of the EAA Reservoir A-1 project as described in the NEPA documentation for this permit.

12. System-wide Benefits and Final Operations: The decision on this permit included consideration of system-wide environmental benefits expected to result from the interrelationships of the design, construction, and operation of the work authorized herein and other works to be constructed under Acceler8. These system-wide environmental benefits are projected to offset the adverse effects of such works, as identified in the mitigation ledger attached to this permit.

The permittee has demonstrated that it is the goal of the Acceler8 projects to improve the environment of the south Florida ecosystem while providing for other water related needs of the region. The

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permittee agrees that in order to achieve system-wide environmental benefits, the Acceler8 projects will be designed, constructed, and operated individually and as a whole consistent with the goals of the C&SF Project as modified. The permittee's commitments along with the mitigation and monitoring conditions as set out below are the basis for determining that the system-wide operation of the Acceler8 projects will provide system-wide environmental benefits which serve to offset the individual Acceler8 project impacts.

a. This permit acknowledges that the project results in a loss of 5,889.05 functional units based on the Unified Mitigation Assessment Method. This loss is anticipated be offset by benefits realized through construction of the project and other Acceler8 projects. As shown on the Mitigation ledger attached to this permit, the Acceler8 projects are anticipated to provide enough functional units by the year 2020 sufficient to offset the adverse effects of this project. If it is determined that the functional units anticipated to be lost as a result of this project are not fully offset through implementation of the identified Acceler8 projects by March 1, 2020, the USACE will re-evaluate the project's adverse effects in light of all of the circumstances prevailing at that time, to determine if an alternate and/or supplemental compensatory mitigation plan is needed. Although the full environmental benefits as projected on the ledger are not expected until 2020, the USACE will require annual monitoring to ensure the Acceler8 projects are trending toward success, achievement of the restoration targets, and the functional lift projected in the mitigation ledger. See Special Condition number 12.e below.

b. As a condition of this permit, the permittee agrees to fully satisfy, implement, and pay for any alternative and/or supplemental mitigation requirements that the USACE may determine to be necessary to address the loss of functional units cited above. As a contingency for addressing this situation if it should occur, based on best available information the permittee has identified up-front potential alternative mitigation actions for this project.

c. In order to provide the system-wide benefits of this project, the permittee shall operate the project in accordance with a final operation plan developed consistent with current

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USACE Engineering Regulations and the requirements of the C&SF Project as modified. The final operation plan will be consistent with the operational guidelines identified in the NEPA evaluation for the project. The final operational plan will be reviewed and approved by the USACE prior to operation of the project.

d. The final operations plan shall include but will not be limited to a water budget that estimates the appropriate volume and distribution of water necessary to achieve the anticipated system-wide environmental benefits as required to offset the project impacts and necessary to meet the goals of the project. This water will be protected under Special Condition number 12.h below. Any modification to the final operating plan will require Department of the Army approval prior to modification.

e. This permit acknowledges that the mitigation ledger is based on operational assumptions and is therefore, a dynamic evaluation which will continue to be updated by the USACE in coordination with the resource agencies as individual Acceler8 projects come on line, updates of predictive models are made, and a final operations plan is developed.

f. The permittee shall conduct monitoring as identified in the EAA Reservoir A-1 Mitigation Monitoring Plan, Annex B of the May 2006 FEIS, incorporated herein by reference.

g. It is the responsibility of the permittee to achieve the system-wide benefits to which this project contributes. If annual monitoring identifies areas where Acceler8 system-wide environmental benefits are not trending toward success at a reasonable rate of progress, the permittee and the USACE will review the operating plan to determine if adjustments can be made to achieve such benefits. The permittee shall be required to implement corrective actions necessary to achieve the required environmental lift. If it is determined prior to the permit expiration date that such system-wide environmental benefits can not be achieved through such actions, the permittee will be responsible for undertaking alternative compensatory mitigation as determined by the USACE to offset project impacts.

h. The permittee shall not allocate for consumptive use any water made available by the project until it is demonstrated that the project can be operated consistent with the approved

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operations plan to achieve the project's anticipated environmental benefits as identified in the NEPA documentation for this permit and mitigation ledger. At such time, the water made available for consumptive use will be identified and allocated consistent with the requirements of the NEPA evaluation. The USACE will consider the State's allocation decisions in determining compliance with the mitigation plan and projected system-wide benefits.

i. The permittee shall provide sufficient financial assurances, determined to be necessary by the USACE, for the performance of all obligations, covenants, terms, conditions, and agreements required under this permit.

j. This permit acknowledges that the mitigation will be conducted consistent with the CERP Adaptive Management Plan which is incorporated herein by reference.

13. None of the authorizations or conditions in this permit are intended to diminish or alter the governmental authority and powers of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida (Tribes), or diminish or alter the rights of those tribes, including rights under any tribal agreement with the permittee or any agency of the U.S. Government. The permittee shall advise this office and the Tribes when the permittee becomes aware of issues implicating the powers or rights of the Tribes or other issues that may make necessary a modification to the permit.

14. The permittee shall submit to this office any revisions and/or modifications to the underlying design documents and drawings for the enclosed project plans. The permittee is advised that failure to provide complete requests for permit modifications or complete monitoring reports as required by any of the conditions above, may prevent this office from issuing future modifications to this permit and authorizations for further construction, even if the particular incomplete submittal is for a different portion of the project.

15. The permittee shall submit to this office for review and approval a recreational plan for the EAA Reservoir A-1 project prior to operation of the facility.

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Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

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d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.


6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this

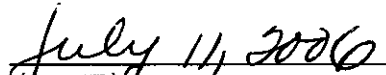
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permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the USACE will normally give favorable consideration to a request for an extension of this time limit.

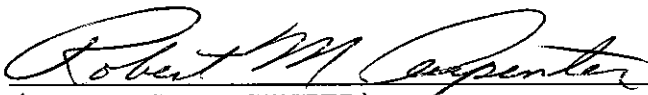
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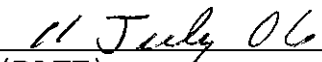
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(EXECUTIVE DIRECTOR)
Carol A. Wehle
South Florida Water Management District


(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


(DISTRICT ENGINEER)
Robert M. Carpenter
Colonel, U.S. Army


(DATE)

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army
Permit Number SAJ-2005-53(IP-TKW)***

1. PROJECT DESCRIPTION: 1 page, dated July 6, 2006
2. PERMIT DRAWINGS: 42 pages dated March 9, 2006 and 56 pages dated March 10, 2006
3. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit; 9 pages dated April 28, 2006.
4. AS-BUILT CERTIFICATION FORM: 1 page
5. MITIGATION LEDGER: 1 page, dated May 4, 2006
6. STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE: 1 page
7. STANDARD MANATEE CONSTRUCTION CONDITIONS: 2 pages, dated June 2001

Attachment 1
EAA Reservoir A-1 Project Description

EAA Reservoir A-1
PROJECT DESCRIPTION
July 6, 2006

- 1) Excavation of approximately twelve (12) linear miles of seepage canal around the exterior of the reservoir and twenty (20) linear miles of borrow canal and .39 square miles of borrow pits on the interior of the reservoir.
- 2) Excavated material to be used to construct approximately twenty and a half (20 ½) miles of embankment.
- 3) Construction of one (1) new 3600 cfs pump station (North East Pump Station) outside the embankment wall within the project footprint. This station will be designed for expansion to 5,000 cfs. The station will provide water supply to the reservoir.
- 4) Construction of five (5) new 200 cfs irrigation pumps will be included in the North East Pump House.
- 5) Construction of three (3) new 58 cfs seepage pumps will be included in the North East Pump House. These pumps will pump seepage from the seepage canal into the reservoir.
- 6) Construction of one (1) connector canal (North East Pump Station Connector Canal) from the North East Pump Station to the North New River.
- 7) Construction of one (1) new U.S. 27 roadway bridge across the North East Pump Station Connector Canal.
- 8) Construction of two (2) new water control discharge structures (Southeast and Southwest Control Structures) through the Reservoir A-1 embankment to the STA 3/4 Supply Canal. These structures are to be multiple barreled 10' x 10' gated RCBs with remotely operated telemetric control. The Southwest structure will have seven barrels while the Southeast structure will have 5 barrels.
- 9) Water Control Structure Electrical and Telemetry Systems.
- 10) Pump Station Electrical and Telemetry Systems.
- 11) Maintenance Reservoir A-1 Embankment - top of levee access roads.
- 12) Maintenance of Reservoir property – access road between seepage canal and embankment.

*There will connections made to the STA 3/4 Supply Canal and the North New River. There will be no structures constructed in the North New River. The South East and South West Control Structures will be built perpendicular to the STA 3/4 Supply Canal levee.

Attachment 2
Plans and Specifications

Attachment 3
State Water Quality Certification



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castillo
Secretary

COMPREHENSIVE EVERGLADES RESTORATION PLAN REGULATION ACT (CERPRA) PERMIT -CONSTRUCTION AUTHORIZATION

PERMITTEE:
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

ATTENTION:
Ms. Carol Wehle
Executive Director

Permit Number: 0242172-002-GL
Project: Everglades Agricultural Area (EAA)
A-1 Reservoir Seepage Canal Construction
County: Palm Beach

Date of Issue: April 28, 2006
Expiration Date: April 28, 2011

This permit is issued under the authority of the Comprehensive Everglades Restoration Plan Regulation Act (CERPRA), Chapter 373.1502, Florida Statutes (F.S.); Title 62, Florida Administrative Code (F.A.C.); and pursuant to the Department of Environmental Protection (Department) authority under Chapter 373 and 403, F.S. The activity is not exempt from the requirement to obtain a CERPRA Permit.

The above named permittee is hereby authorized to initiate the activities described on the application, associated drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. The activities authorized by this permit must be conducted in conformance with all the provisions of this permit. Failure to comply with all permit conditions and documents referenced herein shall constitute grounds for revocation of the permit and appropriate enforcement action.

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act, 14 U.S.C. § 1456, and constitutes certification of compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. § 1341. Activities described in the related documents are not authorized until the project is determined to be in conformance with all applicable rules and with the general and specific conditions of this permit/certification/authorization, as specifically described below.

PROJECT DESCRIPTION:

The EAA A-1 Reservoir, a "project component" as defined in Section 373.1501(1), F.S., is a Comprehensive Everglades Restoration Plan (CERP) Project. The Water Resources Development Act of 2000 approved CERP under Section 601 as a framework for modifications to the Central and Southern Florida Project necessary to restore the South Florida ecosystem. The EAA A-1 Reservoir was also identified as an Acceler8 project which the State of Florida is accelerating the funding, design, and construction of in order to realize immediate environmental benefits. The goals and objectives of the EAA A-1 Reservoir are to capture, move, and store agricultural stormwater runoff and regulatory releases from Lake Okeechobee; provide sufficient water for agricultural and environmental demands; and to improve operational flexibility within the EAA. The EAA A-1 Reservoir Seepage Canal Project is the first phase of the EAA A-1 Reservoir Project. Construction of the seepage canal during this initial phase shall provide material for embankment construction in future phases and an effective tool for managing seepage upon completion of the reservoir project.

Permittee: South Florida Water Management District
Project: EAA A-1 Reservoir Seepage Canal
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The EAA A-1 Reservoir Seepage Canal Project consists of constructing a seepage canal along the eastern, northern and northwestern portion of the reservoir project site; excavation of three borrow pits within the interior of the project footprint; and the excavation of an interior borrow canal that will follow the perimeter of the overall project footprint (See Figure 1). Construction activities associated with the project shall include the stripping of topsoil, blasting and removal of caprock, dewatering, and the excavation of earthen materials. Excavated material will be strategically placed upon the stripped caprock to allow for optimum drying in preparation for future embankment construction. There shall be no wetland impacts within the project area.

The District is responsible for the construction, operation, maintenance, repair, replacement, and rehabilitation of the EAA A-1 Reservoir Project.

PROJECT LOCATION:

The Seepage Canal Construction portion of the EAA A-1 Reservoir Project encompasses an area of land in central Palm Beach County, Florida. It is located directly north of the Stormwater Treatment Area (STA) -3/4 between the North New River Canal and Miami Canal in Sections 04, 05, 06, 07, 09, 10, 14, 15, 18, 23, 24, 25, 26, 36 Township 46 South, Range 37 East; and Section 31, Township 46 South, Range 38 East.

DECLARATION OF REASONABLE ASSURANCES:

In issuing this permit, the Department finds that the District has given reasonable assurances sufficient to satisfy the requirements of the Comprehensive Everglades Restoration Plan Regulation Act, Section 373.1502, F.S. The Department bases this finding on the following documents, listed by FDEP document number:

- 1) South Florida Water Management District, Everglades Agricultural Area A-1 Reservoir, Seepage Canal Project, Comprehensive Everglades Restoration Plan Permit Application and associated materials (June 2005 & January 2006);
- 2) South Florida Water Management District, EAA Storage Reservoir A-1 Basis of Design Report (January 2006);
- 3) United States Army Corps of Engineers, Jacksonville District, Draft Everglades Agricultural Area Storage Reservoirs Integrated Project Implementation Report and Environmental Impact Statement (February 2006);
- 4) United States Army Corps of Engineers, Jacksonville District, Draft Supplemental Environmental Impact Statement (January 2006); and,
- 5) South Florida Water Management District, Everglades Agricultural Area A-1 Reservoir Preliminary Design Drawings, (March 2006).

Specifically, there are reasonable assurances, pursuant to Section 373.1502, F.S., that:

- "The project component will achieve the design objectives set forth in the detailed design documents submitted as part of the application." This finding is based on document 1; document 2 with emphasis on Sections 3, 6, 8, 11, 12, 13, and Appendices 8 and 13; document 3 with emphasis on Section 6, Appendix A, and Appendix C; document 4 with emphasis on Chapter 2; and document 5 in its entirety.
- "State water quality standards, including water quality criteria and moderating provisions, will be met. Under no circumstances shall the project component cause or contribute to violation of state water quality standards." This finding is based on document 1; document 2 with emphasis on Sections 3.2.3, 6, and Appendix 3-2; document 3 with emphasis on Sections 2.14, 7.12, 8.5, Annex F, and Appendix C; and, document 4 with emphasis on Section 3.2.7.
- "Discharges from the project component will not pose a serious danger to public health, safety or welfare." This finding is based on document 1; document 2; document 3; and, document 4.

Permittee: South Florida Water Management District
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- "Any impacts to wetlands or threatened or endangered species resulting from implementation of the project component will be avoided, minimized, and mitigated as appropriate." This finding is based on document 1 with emphasis on the US Fish and Wildlife Service Environmental Existing Conditions Report; document 2 with emphasis on Sections 2.7, 20.11, and Appendix 2-1; document 3 with emphasis on Section 2, 7, Annex A, and Appendix C; and, document 4 with emphasis on Chapter 4.

The District agrees to construct the project in accordance with the provisions of this permit, permit application, and the associated documentation on file with the Department.

GENERAL CONDITIONS:

In accordance with Subsection 373.1502(3)(e)(2) of the CERPRA, this permit may include any standard conditions provided by Department rule, which are appropriate and consistent with the CERPRA.

1. **Enforcement.** The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Chapters 373.129, 403.141, 403.727, 403.859 through 403.861 F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.
2. **Scope of permit.** This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.
3. **Limitation of rights.** The issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit. However, this permit is in lieu of other permits under Chapter 373 or Chapter 403, F.S., except for permits issued under s. 403.0885, if applicable.
4. **Limitations upon title.** This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.
5. **Liability.** This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
6. **Operation and maintenance responsibilities.** The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. **Access Rights.** The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:
- (a) Have access to and copy any records that must be kept under conditions of the permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
 - (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. **Noncompliance.** If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:
- (a) A description of and cause of noncompliance; and
 - (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.
9. **Records as evidence.** In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111, F.S. and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.
10. **Changes in Law.** The permittee agrees to comply with changes in applicable Department rules and applicable Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida law.
11. **Transferability.** This permit is transferable only upon Department approval in accordance with Rules 62-4.120 and 62-343.130, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.
12. **Permit at work site.** This permit or a copy thereof shall be kept at the work site of the permitted activity. For the purposes of this permit the work site shall be defined as the South Florida Water Management District Headquarters located at 3301 Gun Club Road in West Palm Beach, Florida.
13. **Records retention.** The permittee shall comply with the following:
- (a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department;
 - (b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least five years from the date of the sample, measurement, report, and application unless otherwise specified by Department rule; and
 - (c) Records of monitoring information shall include:

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Project: EAA A-1 Reservoir Seepage Canal
Permit No.: 0242172-002-GL
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1. the date, exact place, and time of sampling or measurements;
 2. the person responsible for performing the sampling or measurements;
 3. the dates analyses were performed or the appropriate code as required by Chapter 62-160, F.A.C.;
 4. the person responsible for performing the analyses;
 5. the analytical techniques or methods used, including but not limited to MDL; and
 6. the results of such analyses, including identification of potential outlier values.
14. **Requests for information.** When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware that relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.
15. **External Agency Requirements.** Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
16. **Sovereign Lands.** The permittee is hereby advised that Florida law states: No person shall commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
17. **Artifacts.** If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the permittee shall immediately stop all activities which disturb the soil and notify the Department and the State Historic Preservation Officer.

SPECIFIC CONDITIONS:

1. **Instructions to Contractors.** The permittee shall ensure that the conditions contained within this permit are explained to all construction personnel working on the project and shall provide a copy of this permit to each contractor and subcontractor before the authorized work begins. Prior to construction, the permittee shall schedule a pre-construction meeting for attendance by the contractor(s), and representatives from the District, the Department, and other environmental regulatory agencies. The Department shall receive at least two weeks notice of the meeting. The proposed construction schedule shall be provided at the pre-construction meeting and a copy shall be provided to the Department at the address identified in Specific Condition 2.
2. **Addresses.** Reports, schedules, and notices submitted to the Department in accordance with this permit shall be submitted to the Department's Division of Water Resource Management, Water Quality Standards and Special Projects Program, Attn: Ernie Marks, 2600 Blair Stone Road, MS 3560, Tallahassee, Florida, 32399-2400, telephone no. (850) 245-8416.
3. **Endangered Species.** The permittee shall avoid any actions that are likely to result in a take of any species listed by Fish and Wildlife Conservation Commission (FWC) in Chapter 68A-27, F.A.C or U.S. Fish and Wildlife Service, Department of the Interior (USFWS) in 50 CFR 17.11 or 50 CFR 17.12. In the event that either the Department or the permittee determines that the proposed activities will result in a take of a listed species, the permittee shall cease operations affecting the populations and closely coordinate with the FWC and the USFWS to obtain any necessary incidental take permits. If the permittee makes the above determination, it

shall notify the Department at the address and telephone number in Specific Condition 2 within 24 hours of the date of such determination.

Construction

4. **Authorized Construction.** This permit authorizes construction of the EAA A-1 Reservoir Seepage Canal Project in accordance with the plans and documentation submitted by the permittee as part of the permit application and any subsequent submittals that have been approved and are on file with the Department. The permittee shall submit final plans to the Department for review and approval, noting significant changes from the plans provided, prior to initiating construction.
5. **Blasting Activities.** Prior to commencing blasting activities, the permittee shall coordinate with the FWC to eliminate the potential for harmful effects on protected species from the use of explosives within the project area.
6. **Future Phases.** This permit does not authorize any construction activities associated with future portions of the EAA A-1 Reservoir Project. Future phases will require separate review and approval by the Department.
7. **Construction Best Management Practices (BMPs).** At all times during the construction, the permittee shall use best management techniques for erosion and sedimentation control. All graded areas shall be stabilized and vegetated immediately after construction to prevent erosion. Prior to commencement of construction activities, the permittee shall submit a BMP plan which details the use of sediment controls to minimize the suspension and transport of soils, levee materials, and roadway materials into waters adjacent to or downstream of the construction site to the Department for review and approval.
8. **Adjacent Wetlands.** If wetlands exist adjacent to the project component, the perimeter of the protected wetlands adjacent to the area shall be staked and fenced off with construction fencing or other effective physical barriers to prevent encroachment into wetlands prior to the commencement of construction. Upon completion of the barrier installation, the permittee shall contact the Department at the address listed in Specific Condition No. 2 to determine whether inspections of the installed controls are necessary. The barriers shall remain in place until all adjacent construction activities are complete.
9. **Water Quantity and Flooding Impacts.** The permittee shall be responsible for ensuring that the project is constructed and operated so as to not adversely affect adjacent lands with regards to water quantity and/or flooding. The permittee shall hold and save the Department harmless for any and all damages, claims or liabilities, which may arise from water quantity and/or flooding impacts resulting from construction and operation of this project.
10. **NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities.** The issuance of this permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharges from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4)(a), F.A.C. Prior to the commencement of any construction, the permittee is advised to contact the Department's NPDES Stormwater Program at (850) 245-7522 or toll free at (866) 336-6312 or to download application information from the Department's website at <http://www.dep.state.fl.us/water/stormwater/npdes/construction3.htm#permit>
11. **Dewatering** For any proposed discharge to occur as a result of construction dewatering activities, the permittee shall submit site-specific dewatering information to the Department for review and approval at least 30 days prior to commencement of dewatering activities. The plan shall include at a minimum: a site plan of the project component with the location of the proposed discharge point(s) and their associated water quality monitoring locations; the location and type of turbidity control devices and methods necessary to ensure state water quality standards will be met; calculations estimating the area of influence of dewatering, pumpage rates, duration and volumes; and any proposed methods of construction.

If it is anticipated that dewatering will not be retained onsite, the permittee must also include documentation that the dewatering activities will meet the criteria contained in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District-August 31, 2003" with emphasis on Section 2.5.2(4).

12. **NPDES Generic Permit for the Discharge of Produced Groundwater from any Non-Contaminated Site Activity.** The issuance of this permit does not constitute coverage under the NPDES General Permit for the Discharge of Produced Groundwater from any Non-Contaminated Site Activity pursuant to 62-621.300(2), F.A.C. If any offsite discharges will occur due to construction dewatering activities, then coverage under the aforementioned General Permit may be required and the permittee is advised to review Rule 62-621.300(2), F.A.C. Before discharge of produced groundwater can occur, analytical tests on samples of the proposed discharge water shall be performed to determine if contamination exists. If the analytical results comply with applicable criteria for use of the General Permit, then a short summary of the proposed activity and copy of the analytical tests shall be sent to the Department (See Specific Condition No. 2) within one week after discharge begins, and the permittee may proceed with the project component while abiding by all conditions of the General Permit.
13. **As-Built Certification and Record Drawings.** Within 90 days after the completion of construction for the EAA A-1 Reservoir Seepage Canal Project, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law. The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining whether or not the work was completed in compliance with permitted plans and specifications. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as built" or "record" drawings. A registered surveyor shall certify all surveyed dimensions and elevations.

Reporting

14. **Annual Reports.** The District shall submit an "Annual Report" to the Department detailing the progress of the project. In addition to the permit number and name of the permit administrator, the Annual Reports shall contain, at a minimum, the following information; the project name, permit number, discussion of project status, and conclusions regarding project success, problems encountered during the period covered, and actions taken to address problems encountered. The annual reporting requirements under this permit shall be incorporated into the South Florida Environmental Report (SFER) and submitted to the Department no later than March 1st of each year. If additional reporting modifications are required, the permittee may request a modification of the Annual Report submission date, and upon approval by the Department, the permittee may modify the Annual Report submission date to coincide with other reporting requirements and time periods needed for data acquisition and analysis.

Renewals and Modifications

15. **Permit Modifications.** The permittee shall submit proposed modifications to the Seepage Canal Project to the Department, prior to implementation of the modification, for review and approval.
16. **Permit Renewal.** The Seepage Canal Project is a phase of the EAA A-1 Reservoir Project, and therefore may be supplanted by a more comprehensive multiple component permit in the future. If this does not occur, the permittee shall apply for renewal of this permit, at least 60 days prior to the expiration date. Renewal may be for a period of up to 5 years in accordance with Subsection (3)(g) of the CERPRA.

Permittee: South Florida Water Management District
 Project: EAA A-1 Reservoir Seepage Canal
 Permit No.: 0242172-002-GL
 Page 8 of 9

17. **Department Review and Approval.** Where conditions in this permit require Department review of remedial actions or plan modifications to be implemented pursuant to this permit, the Department will consult with the permittee to ascertain whether a mutual agreement can be reached. If mutual agreement on the remedial actions or plan modifications cannot be reached, the action of the Department will be deemed final agency action and will be subject to judicial or administrative review, as appropriate.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jerry Brooks **Date**
Deputy Director
Division of Water Resource Management

JB/sy/em

FILING AND ACKNOWLEDGMENT

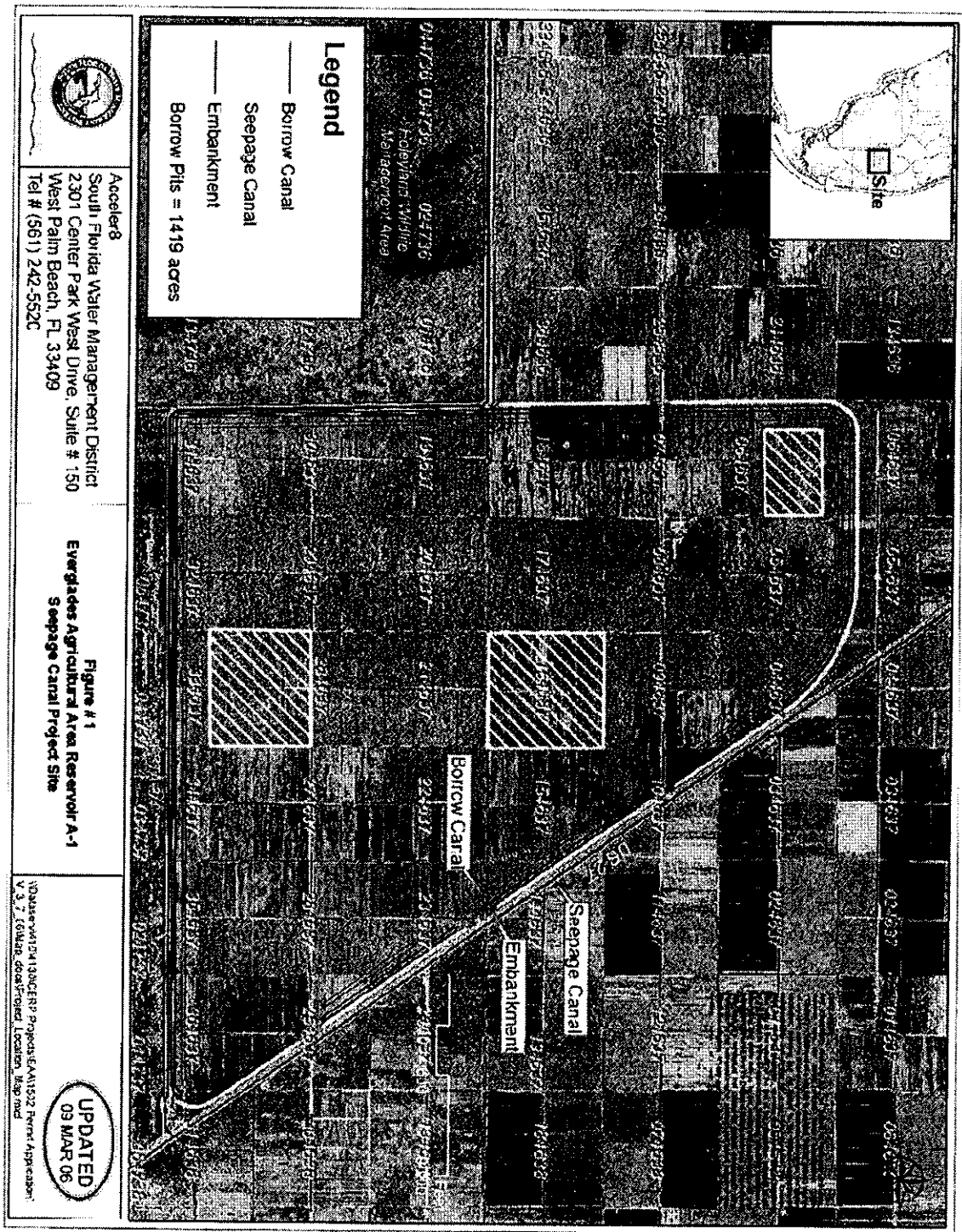
FILED, on this date, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk

Date _____

ELECTRONIC COPIES FURNISHED TO:

Ken Ammon, SFWMD West Palm
Tommy Strowd, SFWMD West Palm
Tom Teets, SFWMD West Palm
Shawn Waldeck, SFWMD West Palm Beach
John Mitnik, SFWMD West Palm Beach
Nirmala Jeyakumar, SFWMD West Palm Beach
Kim Shugar, FDEP Tallahassee
John Outland, FDEP Tallahassee
Frank Nearhoof, FDEP Tallahassee
Greg Knecht, FDEP Tallahassee
Kenny Hayman, FDEP Tallahassee
Shelley Yaun, FDEP Tallahassee
Ernie Marks, FDEP Tallahassee
Dianne Crigger, FDEP Southeast District
Tracy Robb, FDEP Tallahassee/Acceler8
Cindy Fury, U.S. Fish and Wildlife Service
Mary Ann Poole, Florida Fish and Wildlife Conservation Commission
Terri Stoutamire, Dept. of Community Affairs
Linda McCarthy, Dept. of Agriculture and Consumer Services
Tony Masilotti, Board of County Commissioners, Palm Beach County



Attachment 4
As-Built Certification

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Submit this form and one set of as-built engineering drawings to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, Florida 32232-0019. If you have questions regarding this requirement, please contact the Enforcement Section at 904-232-2907.

1. Department of the Army Permit Number: _____

2. Permittee Information:

Name _____

Address _____

3. Project Site Identification:

Physical location/address _____

4. As-Built Certification:

I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (Please type)

(FL, PR or VI) Reg. Number

Company Name

Address

City

State

ZIP

(Affix Seal)

Date

Telephone Number

Attach additional pages as necessary to identify deviations from the approved permit drawings and special conditions.

Attachment 5
Preliminary Draft Mitigation Ledger

PRELIMINARY DRAFT MITIGATION LEDGER

Acceler8 Project Impacts &
Acceler8 System-wide Benefits
updated 05/04/06

Impacts					
Acceler8 Project	HUC	Habitat	FCI	Acres	Debits
EAA A-1 Reservoir	3090202	Ag Fields	0.37	15467.48	5,722.97
		Canals	0.57	149.83	85.40
		Wetlands	0.43	187.63	80.68
					-
					-
					-
					-
					-
					-
					-
					-
					-
					-
					-
					-
					-
				Total	5,889.05

Net Gain / Loss	29,978.83
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Benefits									
Acceler8 System-wide Benefits	HUC	Existing FCI	Adjusted FCI	With-Project FCI	Δ	Temporal Lag	Risk Factor	Estimated Acres	Ledger Credits
Lake Okeechobee Nearshore Habitat	3090202	0.23	0.23	0.43	0.20	0.81	0.60	50,000.00	4,839.60
St. Lucie Estuary	3090202	0.33	0.33	0.53	0.20	0.81	0.60	5,120.00	495.58
Caloosahatchee Estuary	3090205	0.33	0.33	0.47	0.14	0.81	0.60	16,300.00	1,104.40
Water Conservation Area 1	3090202	0.57	0.57	0.70	0.13	0.81	0.60	16,000.00	1,006.64
Water Conservation Area 2A	3090202	0.40	0.40	0.50	0.10	0.81	0.60	105,308.45	5,096.51
Water Conservation Area 2B	3090202							28,292.00	-
Water Conservation Area 3A	3090202	0.63	0.63	0.73	0.10	0.81	0.60	481,964.68	23,325.16
Water Conservation Area 3B	3090202							98,271.54	-
Everglades National Park	3090202								-
									-
									-
									-
									-
									-
									-
									-
									-
									-
								Total	35,867.88

Attachment 6
Standard Protection Measures for the Indigo Snake

STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE

- (1) An eastern indigo snake protection/education plan will be developed by the applicant for all construction personnel to follow. The plan will be provided to the Service for review and approval at least 30 days prior to any clearing activities. The education materials for the plan may consist of a combination of posters, videos, pamphlets, and lectures (*e.g.*, an observer trained to identify eastern indigo snakes could use the protection/education plan to instruct construction personnel before and clearing activities occur). Informational signs should be posted throughout the construction site and contain the following:
 - a. a description of the eastern indigo snake, its habits, and protection under Federal law;
 - b. instructions not to injure, harm, harass or kill this species;
 - c. directions to cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site on its own before resuming activities; and
 - d. telephone numbers of pertinent agencies to be contacted if a dead eastern indigo snake is found. The dead specimen should be thoroughly soaked in water, then frozen.
- (2) Only an individual who has been authorized either by a section 10(a)(1)(A) permit issued by the Service, or authorized by the FWC for such activities, is permitted to come into contact with or relocate an eastern indigo snake;
- (3) If necessary, eastern indigo snakes will be held in captivity only long enough to transport them to the release site; at no time will 2 snakes be kept in the same container during transportation; and
- (4) An eastern indigo snake monitoring report must be submitted to the Service's South Florida Ecological Services Office, Vero Beach, Florida, within 60 days of clearing completion. The report should be submitted when any eastern indigo snakes are observed or relocated. The report should contain the following information:
 - a. results of the tortoise burrow and field surveys;
 - b. any sightings of eastern indigo snakes;
 - c. summaries of any relocation activities for the Project (*e.g.*, locations of where and when they were found and relocated); and
 - d. other obligations required by the FWC, as stipulated in their permit.

Attachment 7
Standard Manatee Construction Conditions

STANDARD MANATEE CONSTRUCTION CONDITIONS

June 2001

The permittee shall comply with the following manatee protection construction conditions:

- a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
- c. Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.
- d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- e. If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.
- f. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) in south Florida.
- g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-561-562-3909) for south Florida.*

CAUTION

MANATEE HABITAT

IDLE SPEED is required if operating a vessel

in the construction area.

All Equipment must be SHUT DOWN if a manatee comes within 50 feet of operation.

Any collision with and/or injury to a manatee shall be reported immediately

to the **FWC** at:

1-888-404-FWCC

(1-888-404-3922)